

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 05/18/04

AGENDA ITEM 3

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal of Planning Commission Denial of Modification of Planned Development to Divide an Anchor Store into Three Smaller Stores - Satish Narayan (Applicant)/Rana Ahmed (Owner) - The Property is Located at 24989 Santa Clara Avenue

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution finding that the project is categorically exempt from CEQA and upholding the Planning Commission's denial subject to the attached findings.

DISCUSSION:

On August 1, 1989, the City Council approved a Planned Development District allowing the construction of Gateway Plaza at the corner of Santa Clara and West Jackson Streets, and located near Interstate 880 as well as the Santa Clara, Jackson Triangle, and Harder-Tennyson neighborhoods. The Planned Development District serves both local and regional customers.

The Planned Development District approved by City Council was for "a neighborhood shopping center (major tenants - Lucky's 48,250 sq. ft. and Payless Drug Store 23,675 sq. ft.)." The only provision indicated for subdividing spaces was in the smaller, satellite stores. A shopping center sign was approved that identifies the center and the two major tenants. Currently, Albertsons/Sav-on occupies the larger anchor store, and the former Payless Drug Store (later Rite-Aid) is vacant. This smaller anchor, owned by one of the five property owners of the center, sits at the southwest corner of the center, has visibility from West Jackson Street, and backs onto a vacated portion of West Harder Road, separating it from a single-family residential neighborhood. Staff has reviewed the CC&Rs for the shopping center and finds nothing that would preclude another drug store from occupying the smaller anchor.

On March 25, 2004, with a 7-0 vote, the Planning Commission considered the application to divide the smaller of the two anchor stores into three lease spaces to accommodate a variety of commercial uses. Because the applicant did not propose a use or uses in keeping with City goals for either the

anchor store or in smaller spaces, the Planning Commission did not support the modification to the Planned Development District as requested. The Planning Commission denied the application without prejudice, finding that there was no compelling reason to divide the anchor store and that the elimination of a major tenant space would be detrimental to the long-term viability of smaller stores in the center. The Planning Commission directed staff to bring back the modification of the Planned Development, incorporating uses consistent with the policies of the General Plan and providing appropriate environmental review. On March 31, 2004, the decision was appealed. Because the Planning Commission's action has been appealed, staff has not returned to the Planning Commission with a modification to the Planned Development.

In his appeal letter (Exhibit B), the appellant modified his earlier request to subdivide the anchor store into three lease spaces. He is currently seeking the flexibility to either retain the store as a single space or to subdivide it into two or three spaces. With regard to the types of uses that would occupy the space, the appellant is requesting that the Planning Director be given the authority to approve uses allowed in the Neighborhood Commercial District, with the exception of those uses that may be specifically excluded by the City Council. The appellant is of the opinion that the shopping center serves only the local neighborhoods and maintains that dividing the space would provide for uses or services currently not available to the local neighborhoods, although no uses were specifically named that were not already in the neighborhood. The appellant also indicates that the denial of his request would result in a financial hardship.

At the public hearing, the real estate agent for the appellant indicated that the anchor store has remained vacant for three years and has been strongly marketed without success. However, he has letters of intent from the Dollar Store and a Chinese buffet restaurant indicating interest in smaller tenant units. The Planning Commission found that dividing the anchor store would be shortsighted and contrary to the Planned Development that provided for a shopping center with two anchor stores. In addition, they indicated that there is no guarantee that the two proposed uses would be successful because these uses are already found in the surrounding neighborhoods and throughout the City. After learning that the applicant had owned and marketed the site for only six months, the Planning Commission indicated that it should be marketed for an additional six months before concluding that it is not possible to find a single tenant for an anchor store of this size.

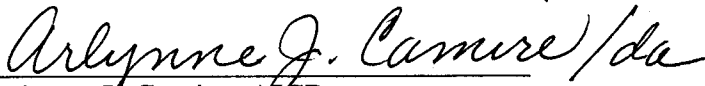
In staff's opinion, the proposal to divide the space for occupancy by non-specific uses would not address the long-term potential of this retail space within the shopping center. According to contacts of real estate brokers by staff (Colliers International), a shopping center of 73,000 square feet or more can sustain two anchor stores. Staff believes the 23,675-square-foot anchor store is marketable at its current size and has encouraged the owners to market the unit to one tenant that could provide a service or product that is not available or underrepresented in the City. For example, acceptable uses for the anchor store might include a garden store, a craft store, a hardware store, a fabric store, a kitchen/linen store, a book store, a bath shop, a music store, a clothing store, and a specialty food store. A destination sit-down restaurant (e.g., Fresh Choice, the Outback, Spaghetti Factory, Claim Jumpers, Red Lobster) typically requires half the space of the anchor, which staff would support should the appellant locate a major restaurant of this type.

The proposal is not consistent with the Economic Development Element of the General Plan which requires *"utilization of an economic strategy that balances the need for development with other City goals and objectives."* One of the policies of the General Plan states, *"Promote Hayward as a destination for nonresidents."* An anchor store on State Route 92 (West Jackson Street) near Interstate 880 can serve this purpose since it typically would have a wider customer base than small shops. The division of the anchor store could actually be detrimental to the long-term viability of the shopping center since the smaller uses would not likely draw from these adjacent commuter routes and fewer customers would visit the center. The store has significant frontage with visibility from Jackson Street, which could be used for signage to attract a broader range of clients. Another policy calls for attracting businesses that focus on sales tax and employment generators, including community-serving retail uses. Community-serving retail uses would provide services or merchandise that is underrepresented or not available to City residents.

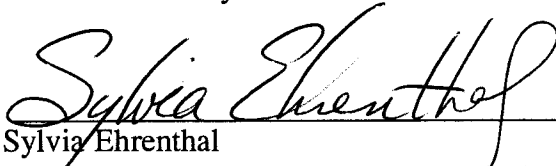
The division into smaller tenant spaces would likely yield a higher profit as a short-term benefit to the applicant as, typically, the per-square-foot lease rate for smaller spaces is greater than for larger lease spaces. In the long run, however, staff is concerned that this approach might not be in the best interest of the shopping center. Also, if divided, it is unlikely that the tenant improvements would be undone to provide for a major tenant in the future. Ideally, the anchor should be kept as one, however, if the City Council is inclined to allow it to be divided, then staff recommends a division into two tenant spaces. Also, staff would recommend that the matter be referred to the Council's Commercial Center Improvement Committee to develop a list of appropriate uses that could occupy the space. Once developed, the matter could be returned to the Planning Commission for their review and recommendation.

Staff received two emails from the same resident in support of the project and several phone calls in opposition. However, only the applicant, the property owner and their representative spoke at the public hearing.

Prepared by:


Arlynnne J. Camire, AICP
Associate Planner

Recommended by:


Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:


Jesús Armas, City Manager

Attachments: Exhibit A. Findings for Denial
Exhibit B. Amended Letter of Appeal, dated May 5, 2004
Exhibit C. Letter of Appeal, dated March 31, 2004
Exhibit D. Planning Commission Meeting Minutes and Staff Report,
dated March 25, 2004
Exhibit E. Area and Zoning Map and Aerial Photo
Draft Resolution

5/11/04

FINDINGS FOR DENIAL
Zone Change Application No. PL-2003-0746
Satish Narayan (Applicant)
Rana Ahmed (Owner)
Request to Modify Planned Development No. 88-4
24989 Santa Clara Avenue

Based on the staff report and the public hearing record:

- A. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and is Statutorily Exempt from CEQA guidelines, Section 15270 (a), Projects Which Are Disapproved.
- B. The project is not in substantial harmony with the surrounding area in that it does not take into account the long-term commercial needs of the residents of the surrounding neighborhoods and the commuters on nearby State Route 92 and I-880. An anchor store at this location can serve this purpose since it typically has a wider customer base than small shops. The division of the anchor store as requested may actually be detrimental to the long-term viability of the shopping center since a use that has a broader draw would not be provided and fewer customers would visit the center in that the division of the anchor would not attract a use that is underrepresented in this area of the City.
- C. The applicant has not provided evidence that the project will not provide a use or uses that will promote conformity with applicable performance standards. The intent of the Planned Development District is to carry out the policies and objectives of the General Plan. In addition, the overall planning for the purpose intended will not create an environment of sustained desirability and stability through the design and development standards since the division of the anchor store does not guarantee that that the yet unknown uses would serve the surrounding neighborhoods and the City.
- D. The incremental change to the Planned Development District has not been shown by the applicant to be desirable to the total development over the long term. The applicant has not adequately demonstrated that the proposal is compatible with City economic development policies as it has not been proven that the potential uses would be beneficial to the residents of Hayward. In addition, the division of an anchor store may decrease the number of customers to the center because the potential of a broader draw will be removed.

SATISH C. NARAYAN
964 COLLINS COURT, HAYWARD, CA. 94544
(510)795.2200/ (510)259.6254. FAX: (510)259.6254
Email: narayansatish@hotmail.com.

May 5th, 2004

Ms. Arlynn Camire, Associate Planner
C/ City of Hayward
777 "B" Street
Ca. 94541

Re: Appeal to City Council. PL-2003-0746

Dear Ms. Camire:

Further to my appeal letter dated March 29th, 2004 and subsequent discussion with staff, following are the action and recommendation we are seeking from staff and City Council.

We are requesting sub division of the existing space (22,675 sq. ft) into three smaller retail spaces as well as approval to lease this space to either two separate users or a single user, if one such retail user is identified and is acceptable as permissible user. This would allow the property owners some flexibility and present different marketing options to locate appropriate tenants for the site.

We further request City Council to require the Director of Planning (or assignee) to approve the permitted uses for this site. Such uses shall be those applicable and permitted in the City's "Neighborhood Commercial" zone, with such exceptions as identified by the City Council.

Once again, thank you and City Council for your continued assistance and kind considerations.

Sincerely

Satish Narayan. Applicant.

Cc: Ms Dyana Anderly. Planning Manager, City of Hayward.

Arlynn Camire

From: Satish Narayan [narayansatish@hotmail.com]
Sent: Wednesday, March 31, 2004 8:36 AM
To: Arlynn Camire
Cc: Richard Patenaude
Subject: Zone Change #: PL-2003-0746. APPEAL.

Ms. Camire. With this email, we are formally appealing the decision of the Planning Commission, which at its meeting on March 25, 2004 denied the above application to divide our existing facility at 24989 Santa Clara Avenue, into three smaller retail units. Please see the attached for our formal appeal application to the City Council. Thank you (and Richard) for your assistance. What is the fee related to this appeal application.

*Satish Narayan
Real Estate Sales/Loans & Design/Construction.
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email: narayansatish@hotmail.com.

March 29, 2004

Ms. Arlynne Camire, Associate Planner
c/ City of Hayward,
777 "B" Street
Ca. 94541.

Re: Appeal to City Council. PL-2003-0746.

Dear Ms. Camire:

With this letter, we are appealing the denial by the Planning Commission of the above application to divide the existing 22,675 sq. ft. store into three smaller retail spaces.

The specific actions appealed are as follows:

1. Staff assertion that this secondary (smaller) anchor store is part of a "Regional Shopping Center". Our contention is that this shopping center is a "Neighborhood Commercial Center" and is therefore LOCAL and serves the local neighborhood customers. Albertsons/Sav-on Drug store, the anchor tenant, is not regional in its operation and serves only the local customers. Therefore it is unfair to expect this smaller, retail store to be anything but local in nature. Definitely not regional.
2. We, further submit that allowing this smaller retail center to be divided into smaller retail stores will enhance city's goals and objections in promoting the local, neighborhood economy and provide those services that are not presently available in this center and neighborhood. We strongly stress that this center will not be a "destination for nonresidents" as maintained by staff. Planning should utilize the city's CBD and other regional centers (such as Southland Mall) to fulfill City's goals and objectives relating to "Destination Centers". Not this site.
3. Additionally, the proximity of Interstate 880 and State Route 92 (W. Jackson Street) does not contribute to bringing potential customers to this center. Essentially, these highways are "commuter routes", which does not and will not include this center as a destination for the commuters.
4. Further, three smaller stores will generate more local traffic and customers and will not burden the existing levels of service. Smaller stores will also encourage more local participation of residents in terms of offering more entry level employment for local residents. For example, for the size of the anchor tenant (Albertsons/Sav-on), there appears (personal observation) to be no more than 8-10 staff on any shift. The level of service has further decreased/eroded with "Automated Registers".
5. Staff maintains that the division of the smaller retail store (22,675 sq. ft.) would be "Detrimental to the long-term viability of the Shopping Center", and would not be beneficial to the "Residents of Hayward" (Findings for Denial. Attachment C: Items: B, C, & D). It is our belief that this center exists for the service and pleasure of the LOCAL RESIDENTS, and not the general population of the City of Hayward. It is not the function of this Neighborhood Commercial Center to provide regional services for greater Hayward residents and other nonresidents. For Council members information, we, however, have an "Intend to Lease" (IOL) from a prospective tenant (approximately 12,000 sq. ft.), who we believe can and will

function as a local and regional operator because of the type of service they offer. A copy of IOL from this prospective tenant has already been shared with members of the Planning Commission and staff.

At this time we also would like to mention that while we have been marketing this site for the last 6 months, there have been two previous owners who, over the past 3+ years have also tried to market this store to a single user, albeit, unsuccessfully. Both these owners lost the property in default and we (present owners) bought this in October 2003. Denial of our application will constitute economic hardship to us and will result in our inability to maintain continued ownership of the property due to the expenses related to mortgage payments and other related costs (CAM charges, property tax, insurance, etc). Other subsequent owners will have the same problem related to leasing this site to a single user.

In conclusion, we seek the City Council to reverse Planning Commission recommendation and approve our application. Approval will serve to revitalize and bring new economic activity (and customers) to Gateway Plaza. Interviews with existing retail operators and owners and clients of this Center, demonstrate that with the approval of this application they believe everyone will benefit, especially the City with receipt of increased income from additional sales tax and other revenues that will be generated.

We humbly request the City Council to reverse Planning Commission recommendation and approve this application.

Thank you, and City Council members for their kind considerations.

Sincerely

Satish Narayan. Applicant.

Commissioner Fraas asked about the time limit for E&J since they have been out of compliance for quite awhile.

The public hearing opened and closed at 7:34 .m.

Commissioner Sacks moved, seconded by Commissioner Bogue, the staff recommendation of **holding** in abeyance the revocation of the Use Permit.

The motion passed unanimously.

2. **Zone Change Application No. PL-2003-0746 – Satish Narayan (Applicant) / Rana Ahmed (Owner) - Request to Modify Planned Development No. 88-4 to Divide a 23,675-Square-Foot Anchor Store into Three Smaller Stores - The project is located at 24989 Santa Clara Avenue**

Associate Planner Camire described the property and the history of the Planned Development. She noted that Gateway Plaza serves three neighborhoods in the area. The owner would like to divide the anchor store into three units. She said the applicant has stated that there are no prospects for tenants at this time. Staff recommends denial of the application since the two anchor stores can be supported by this size shopping center. If the anchor store were divided it may be detrimental to the long-term viability of the shopping center and is not consistent in meeting the goals of the General Plans Policies.

Commissioner Halliday asked about the original approval and Albertsons previous arrangement that no other drug store occupy the site. She asked whether the City had any involvement in this.

Associate Planner Camire said that the City was not involved since it was a lease arrangement and the requirement would be specified through the CC&R's.

Commissioner Thnay asked about historical data relative to how long a site of this size takes to fill when vacant.

Principal Planner Patenaude said this type of center could generally support two anchor tenants, a major and a junior. Since the smaller tenants are supported by the larger stores, this particular store needs to be a destination draw since it is tucked away toward the back.

Commissioner Thnay said there is no real sign from the freeway to let people know what is in the center.

Principal Planner Patenaude noted that this size of a center is too small for the kind of freeway signs found at Southland. However, this storefront is visible from Highway 92/Jackson Street.

Chairperson Zermefio asked whether the City gets involved in helping the owner search out tenants.

Principal Planner Patenaude responded that the City does not have the staff to provide that function. However, Economic Development Specialist Sally Porfido, with the Community and



Economic Development Department, has been helpful to this applicant by supplying contacts to reach for tenants.

Chairperson Zermeño commented that the Center just lost a video store.

Principal Planner Patenaude explained that this would continue to happen until they get a major tenant.

The public hearing opened at 7:47 p.m.

Satish Narayan, applicant, explained that they consider Gateway Plaza a neighborhood commercial center, rather than the regional commercial center. He noted that a specialty store is not an anchor store or a major draw. The shoe store on site is a specialty store with an established clientele. The other stores are neighborhood stores. He emphasized that they are looking at lists of commercial users for neighborhood commercial centers. The 880-freeway is a commuter freeway and drivers would not stop at this center. This is not an area that would be defined as a destination nor is it readily accessible. There are tenants ready and willing to come into the center but they can't get approval from staff. Many people in the center would like something to be done to make this building more functional. This is almost 30 percent of the area of the center. If it is vacant, it will detract from the other shops. If the store could be divided others might be interested in leasing the space.

Commissioner McKillop asked how long the building has been unoccupied and how long they have been pursuing a tenant.

Mr. Narayan noted that they had owned the building since October and have pursued the regular markets. He commented that the CC&Rs would not discourage many of the tenants. The 99Cent store would not compete with others. That's the only restriction with the CC&Rs.

Commissioner Fraas asked about the drug store.

Mr. Narayan explained that if the use is idle for 18 months, they could bring something in. Rite Aid went out 3 years ago, the Sav-On component of Albertsons came in only 18 months ago. He also stated that they are marketing through regular channels. He said they do have tenants who would sign with them if the division were allowed. With the division they could focus on a different level of tenant for marketing. He emphasized that they have not been able to find a large enough tenant to fill the whole space. The rebuilding of the freeway in the area has not been a concern nor has it entered into any discussions.

Commissioner Fraas asked whether there are any other vacant shops in the center.

Mr. Narayan said just the recently vacated Video store is the only other spot that is vacant.

Victor Khan, real estate agent for the applicant, explained that this should be classified as a neighborhood shopping center. He commented that the development of the Safeway shopping center across the street has hurt this center the most. The Blockbuster hurt the video store. He named a number of stores competing with the Gateway Plaza in the Safeway shopping center. He commented on the access into this center. The center has been strongly marketed. The Rite Aid store building has been vacated for more than 3 years. The 99cent store chain would take this divided space in a heartbeat. However, since they sell milk and canned food, this would be prohibited by Albertsons through the CC&R's. The division of the space would enhance other retailers. The size of the store is unusual. He noted that the Chinese buffet would be amenable to the smaller space. They would add windows to the Jackson Street side of the building. He noted that they had a proposal from Dollar Store as well, which would fit into the center. He suggested the Commission agree to the division for the betterment of the shopping center.

Commissioner Bogue asked about owning the parcel separately but having it still under the control of the restrictions of Albertsons. He then asked about a letter of intent from the Chinese buffet.

Mr. Khan produced a letter from the Dollar Store as well as from the Chinese buffet.

Commissioner Thnay asked staff about the size of the Chinese Buffet on Mission located in the old Lyon's. Commissioner Bogue said it was less than 5,000 square feet. He commented that Albertsons wielding that kind of power on the center seems unequal, perhaps staff should talk with them.

Commissioner Fraas asked how long has they had owned the site. Mr. Khan said since October.

Commissioner Fraas asked why would it be in Albertsons best interest to have a huge empty store in that shopping center.

Mr. Khan said he tried to talk to Albertsons but they said review the CC&R's. Albertsons owns the store as well as the land and is not a tenant.

As an aside, Commissioner Fraas said there are enough 99-cent stores in Hayward.

Commissioner Sacks commented on the whole business of "why can't we all get along". She noted a small Chinese restaurant within the same shopping center as the Buffet and asked how they feel about a large buffet coming in to compete with them.

Mr. Khan explained that it would help them since they are fast food take out. It shouldn't hurt them. It would bring in more customers.

Commissioner Sacks said this is not a sure thing that the Chinese restaurant would attract more customers. The Commission cannot make the decision based on just the buffet. We need to decide whether this would be a good concept to divide the anchor store contrary to the planned development concept for this center.

**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD****Council Chambers****Thursday, March 25, 2004, 7:30 P.M.****777 "B" Street, Hayward, CA 94541**

Chairperson Zermefio commented that this is a good point since they would be breaking up an anchor store.

Commissioner McKillop asked staff whether this was intended to be a regional center.

Principal Planner Patenaude responded that it is a neighborhood center but the size of the center can support a junior anchor, so it is not a regional anchor necessarily but the size of the building could attract a tenant of a regional nature.

Commissioner Bogue in looking at the letter of intent from the other store commented that they were asking for many other things not allowed in other parts of the City of Hayward so they might not have many of their wishes granted by staff.

Chairperson Zermefio asked what two other businesses might be interested.

Mr. Khan noted that he had explored interest from IHOP and the Hawaiian Bar-B-Que, which would do very well. This would give people a chance to discover a variety of food. The Chinese buffet would like to open up the Jackson Street side with windows. People would be more interested in seeing what is going on.

Commissioner Halliday suggested that since the Nation's is struggling and went in at a later time but have more visibility, what is the applicant's rationale for thinking that these other restaurants would do any better.

Mr. Khan said Taco Bell is doing better than Nation's Burgers. The Nation's does not have a drive-through.

Rana Ahmed, owner, explained the problems of graffiti and homelessness as well as vandalism in this building. He noted that they are trying to rent this out but most people want a smaller space. He stated that they are ready to sign the lease with the Chinese Buffet, but they do not have the authority. He would love to get the building occupied adding that it would be good for the City and them as well.

The public hearing closed at 8:31 p.m.

Commissioner Sacks said she definitely appreciated what staff is recommending. It's also a shame that this makes it sound as though Albertsons is the bad guy. Right outside our doors is a similar situation. There is an Albertsons and a series of smaller places without a junior anchor and it seems to be working well. She remembered learning that a restaurant would do better with other restaurants than on its own. There is a synergy that is created, which is not in other places. She said she is willing to listen to other commissioners on this but she was tending to do what the applicant requests.

Principal Planner Patenaude explained that the dynamics of this are different from downtown. He noted that one of the goals of the City for downtown is to locate a second anchor at the other end of B Street. The applicant agrees that most of the traffic is at the Albertsons. The stores that benefit most in this center are those around the Albertsons. Without a major draw in that distant corner, the other tenants would suffer. Smaller stores tend not to draw. He added that it's only recently that this owner has been working with a marketer. City staff provided a contact to an agent familiar with Gateway Plaza emphasizing that the store has been owned by this owner for 6 months or since last October.

Commissioner Thnay said he remembered when a former mayor wanted this area to have a major hotel for a real regional draw, and then it was scaled down. He noted that he would be willing to give it a try. However, the General Plan promotes this as an entryway into the City. He said he was willing to wait to see what the applicant might be able to come in with in about six months as to firm commitments and something more substantive.

Commissioner McKillop said she was also thinking about the downtown Albertsons and the small shops. She said she was now clearer on staff's concept for this location as a planned development with two anchors.

Commissioner Fraas said she appreciated the frustration of the applicant not finding a tenant. The solution is shortsighted. She said the planned development calls for two anchor tenants and we should honor it. She said she did not want to settle for mediocrity adding that we are a valuable community. Dividing would be settling. She wanted what was the best plan for the community. This proposal would lower our standards, which would be a long-term disservice to the community.

Commissioner Halliday said she was persuaded by other commissioners. She expressed worry that the rebuilding of the 880-interchange will make it rough for everyone in the center. Once it's done the area will be enhanced. However, she said she was not ready to give up on a larger store. Although she was sympathetic with the competition, she suggested the applicant keep trying a little longer.

Commissioner Bogue said he agreed with much that has been said, a second anchor is in the planned development. He moved, seconded by Commissioner Fraas, the staff recommendation, without prejudice, if the owner comes back within six months, they could hear it again.

Chairperson Zermefio said he agreed with the other Commissioners. They have owned the store only 6 months, give it at least another six.

Commissioner Sacks agreed with everyone and had been persuaded. She was reminded that this is not unlike being out of work for six months, which is not that long a period of time. She stated that the Commission wants to keep with what they really want.

Chairperson Zermefio reopened the public hearing 8:45 p.m.



Satish Narayan maintained that this property has been in bankruptcy twice because of the second anchor. This has been on going for the past 3 years. He said he appreciated what the Commission was trying to do. However, this is still a neighborhood shopping center.

The hearing was re-closed at 8:47 p.m.

The motion passed unanimously.

Chairperson Zermeño reminded everyone that they had 10 days to appeal.

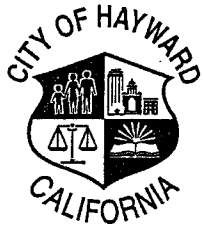
3. Use Permit Application No. PL-2004-0039 – Jim Towslee/PacLand Batavia Holdings (Applicant) / Frank J. Warn, Inc. (Owner) – Request for a Retail Center to Accommodate a 34,000-Square-Foot Regional Retail Building (Circuit City) with Two Retail Shops Buildings of 5,100 and 6,000 Square Feet on Approximately 5 Acres – The Project is Located at 2480 Whipple Road Easterly of the Intersection with Industrial Parkway Southwest and I-880

Principal Planner Patenaude described the site and its location noting that the site is presently occupied by Crescent Truck Terminal. The Circuit City driveway would line up with a realigned Target driveway where a signal light would be installed. One feature of the proposal will be good pedestrian circulation pattern through the parking lot to the store. Two smaller shop areas would be located on the site as well. Changes were made to the design from suggestions of both staff and the City Council Commercial Shopping Center Committee. At this point, Staff recommended approval of the application. He noted that the same conditions for uses for the accessory shops at the Target center would also apply to this center. Condition 31 was reworded with connections to adjacent properties. The Planning Manager from Union City sent a letter of concern regarding the traffic in this area. However, the traffic study shows no impacts on surrounding areas.

Commissioner Halliday said she was pleased with the pedestrian access throughout the center but one of the maps has it in a different location. She said the new map is much better. She also asked about condition 31 regarding a sign on the Shurgard driveway prohibiting left-hand turns onto Whipple Road.

Principal Planner Patenaude said staff had talked with the City Attorney and the City cannot require this applicant to erect signs on Shurgard property. The City of Hayward can require the signs if it is deemed to be a problem. The main concern is for Shurgard to get into and out of their property.

Commissioner Bogue commented on the under grounding of wires along Whipple Road as well as the size of the trash enclosure area. He noted the differences between what was under consideration versus the previous proposal to the Shopping Center Committee.



CITY OF HAYWARD AGENDA REPORT

Meeting Date 03/25/04

Agenda Item 2

TO: PLANNING COMMISSION

FROM: Arlynn J. Camire, Associate Planner, AICP

SUBJECT: Zone Change Application No. PL-2003-0746 - Satish Narayan (Applicant)/Rana Ahmed (Owner) - Request to Modify Planned Development No. 88-4 to Divide a 23,675-Square-Foot Anchor Store into Three Smaller Stores

The Property is Located at 24989 Santa Clara Avenue in a Planned Development (PD) Zoning District

RECOMMENDATION:

It is recommended that the Planning Commission

1. Find that the proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15270 (a), Projects Which Are Disapproved, and
2. Deny the zone change modification subject to the attached findings.
3. Direct staff to bring back the modification of the Planned Development, incorporating uses consistent with the policies of the General Plan and providing appropriate environmental review.

DISCUSSION:

Background

On August 1, 1989, the City Council approved a Planned Development District allowing the construction of Gateway Plaza on seven parcels comprising about 7 acres. This neighborhood shopping center is located at the corner of Santa Clara and West Jackson Streets and contains various restaurants, retail shops, and medical, administrative and personal services. Located near Interstate 880 as well as the Santa Clara, Jackson Triangle, and Harder-Tennyson neighborhoods, the Planned Development District serves both local and regional customers.

The Planned Development District included two major tenants, Lucky's Supermarket and Payless Drug Store. Currently, Albertsons/Sav-on occupies the larger 48,250-square-foot anchor store, and the 23,675-square-foot former Payless Drug Store (later Rite-Aid) is vacant. This smaller anchor, under separate ownership from the remainder of the shopping center, sits at the southwest corner of the center, has visibility from West Jackson Street, and backs onto a vacated portion of West Harder Road, separating it from a single-family residential neighborhood.

When Albertsons/Sav-on took occupancy of the major anchor store, an agreement was reached between Albertsons/Sav-on and the shopping center that there would be no other drug store in that center to compete with the Sav-on component of their operation. For this reason, the owner of the secondary anchor store is not able to lease the former Payless/Rite-Aid store to another drug store.

Proposal

The applicant is requesting to divide the smaller of the two anchor stores into three lease spaces to accommodate a variety of commercial uses. The appearance of the building would be altered by installing "storefront" windows and doors, removing the decorative wooden trellis, and extending the pitched terra cotta tile roof over the walkway extending from Foot Express. The design and color of the facade would be consistent with the remainder of the shopping center. The existing archway tower elements would be the prominent entry features for Units I and III. The smallest unit, Unit II, would be between the larger units and would have a main entry adjacent to the main entry of Unit I. The size and location of business signs would be required to be consistent with the master sign program for the shopping center.

Because the Planned Development District calls for two large anchor stores, a modification of the Planned Development District is required to eliminate one of the anchors. The applicant has stated that the smaller anchor store has been marketed for lease to a single tenant without success. He believes that the anchor store would be more marketable if it were divided into three tenant units of 7,395 square feet, 3,273 square feet, and 12,007 square-feet. Although he has begun to market the three units, he has not yet found tenants. In the past, the applicant had given consideration to leasing to a Chinese restaurant and banquet hall and a dollar store, but he indicates that he is not longer considering these uses.

In staff's opinion, the proposal is not consistent with the Economic Development Element of the General Plan which requires "*utilization of an economic strategy that balances the need for development with other City goals and objectives.*" One of the policies of the General Plan states, "*Promote Hayward as a destination for nonresidents.*" An anchor store on State Route 92 (West Jackson Street) near Interstate 880 can serve this purpose since it typically has a wider customer base than small shops. The division of the anchor store as requested may actually be detrimental to the long-term viability of the shopping center since a use that has a regional draw would not be provided and fewer customers would visit the center. Another policy calls for attracting businesses that focus on sales tax and employment generators, including community-serving retail uses. The community-serving retail uses in the shopping center should provide a service or merchandise that is underrepresented or not available to City residents. According to the market research completed by the City's Community and Economic Development staff, a shopping center of 73,000 square feet or more can sustain two anchor stores. Staff believes the 23,675-square-foot anchor store is marketable at its current size and has encouraged the owners to market the unit to one tenant that could provide a service or product that is not available or under represented in the City. For example, acceptable uses for the anchor store might include a garden store, a craft store, a hardware store, a fabric store, a kitchen/linen store, a book store, a bath shop, a music store, a clothing store, a specialty food and beverage store, or a destination sit-down restaurant (e.g., Fresh Choice, the Outback, Spaghetti Factory, Claim Jumpers, Red Lobster).

Because the applicant has not proposed a use or uses in keeping with City goals for either the anchor store or the three proposed stores, staff cannot support the modification to the Planned Development District as requested. However, in order to promote the expeditious use of the anchor store in keeping with the goals of the General Plan and to support the vitality of the shopping center, staff would be supportive of a modification to the Planned Development to provide for uses such as those discussed above. Accordingly, such a modification to the Planned Development could be advertised for public review and appropriate environmental review and findings could be prepared for a future meeting.

Environmental Review:

The project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) this project is Statutorily Exempt from CEQA guidelines, Section 15270 (a), Projects Which Are Disapproved.

Public Hearing Notice:

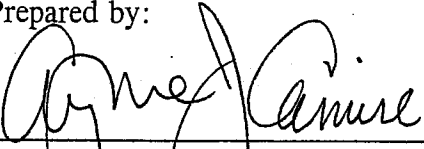
On January 7, 2004, a Referral Notice was mailed to every property owner and occupant within 300 feet of the property as noted on the latest assessor's records, former members of the Harder-Tennyson Neighborhood Plan Task Force, and to all parties having previously expressed an interest in this project. Staff received one e-mail in support of the application (attached).

On March 12, 2004, a Notice of Public Hearing was mailed. All tenants of Gateway Plaza received the notice in addition to all who received the Referral Notice. Staff received an additional e-mail in support (attached) and one phone call in opposition.

Conclusion:


Typically, a commercial property owner may find it to his/her economic advantage to divide larger stores into smaller lease spaces so as to impose higher per-square-foot rents; however, for the economic vitality of the shopping center as a whole, it is economically healthier to maintain the anchor stores. The division of the anchor store into uses that are neither neighborhood serving nor have a regional draw would not be in keeping with the City's goals and policies. Therefore, staff recommends that the application for a modification of the Planned Development District, as requested, be denied. If denied, the decision of the Planning Commission may be appealed to the City Council. Alternatively, staff is supportive of returning to the Planning Commission with a modification to incorporate uses of the anchor store that are in keeping with the spirit and intent of the General Plan.

Prepared by:



Arlynn J. Camire, AICP
Associate Planner

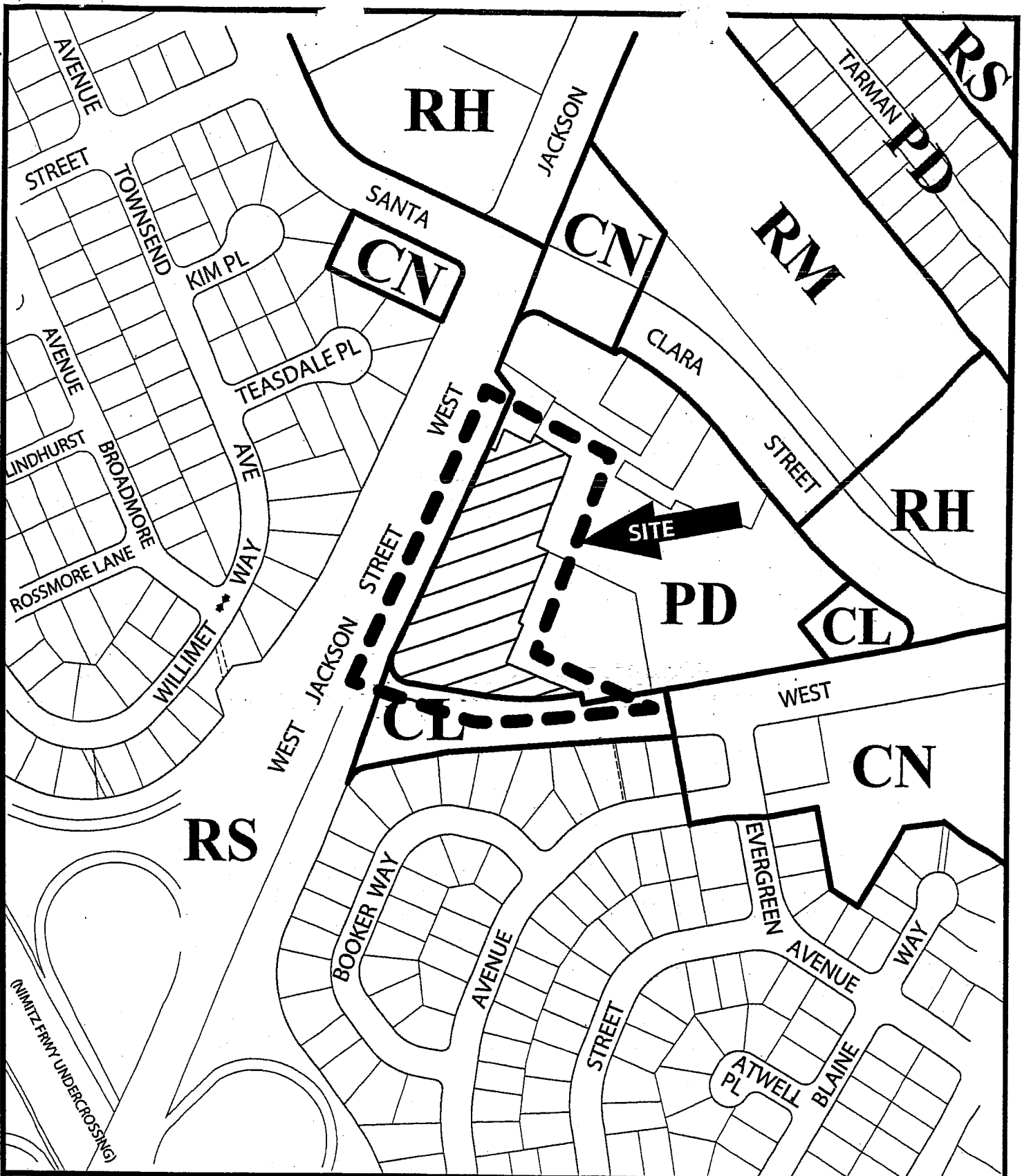
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments

- A. Area and Zoning Map
- B. Two E-mails from Ken Price
- C. Finding of Denial
Plans and Elevations



Area & Zoning Map

PL-2003-0746 ZC

Address: 24989 Santa Clara Avenue

Applicant: Satish Narayan

Owner: Rana Ahmed

CL-Limited Access Commercial

CN-Neighborhood Commercial

PD-Planned Development

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential,RSB4,RSB6



From: ken.price@comcast.net
Sent: Thursday, January 08, 2004 7:35 PM
To: Arlynne Camire
Subject: PL-2003-0746 ZC - Former Rite Aid Building

Arlynne:

This building has now sat empty for about a year and of no value to anyone. If subdividing into two or three smaller tenant spaces would enhance the possibility of rent/leasing then I feel it would be much better than for it to remain empty waiting for a tenant wanting such a large space.

Ken Price

• **Arlynn Camire**

From: ken.price@comcast.net
Sent: Thursday, March 18, 2004 9:32 AM
To: Arlynn Camire
Subject: Proposal (ZC) PL-2003-0746 - Planned Development 88-4

Arlynn:

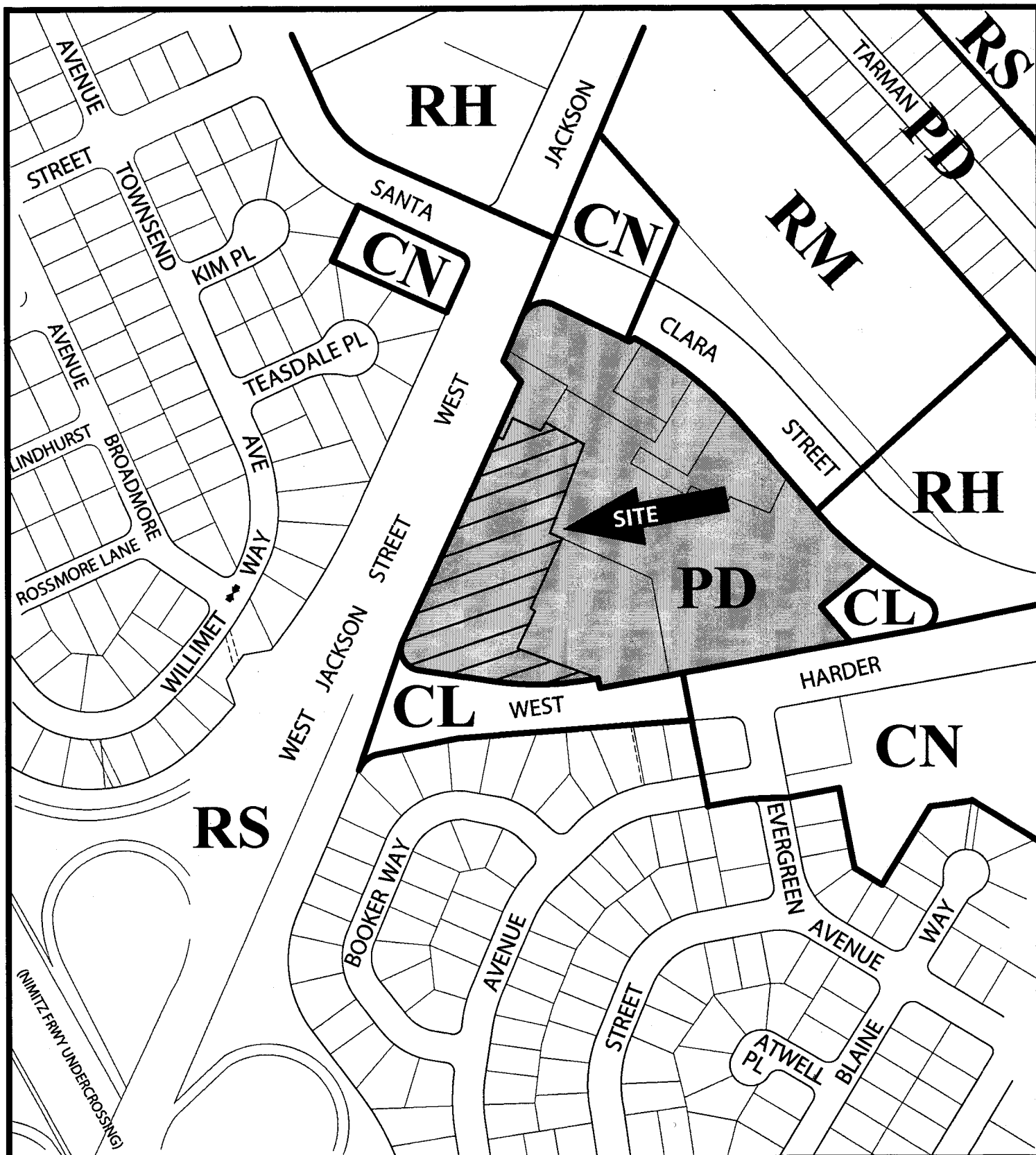
I support the plan to divide the former Rite Aid into smaller stores. The city needs the Tax Income and I can see no harm.

Ken Price

FINDINGS FOR DENIAL
Zone Change Application No. PL-2003-0101
Satish Narayan (Applicant)
Rana Ahmed (Owner)
Request to Modify Planned Development No. 88-4
24989 Santa Clara Avenue

Based on the staff report and the public hearing record:

- A. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and is Statutorily Exempt from CEQA guidelines, Section 15270 (a), Projects Which Are Disapproved.
- B. The project is not in substantial harmony with the surrounding area and does not conform to the Economic Development Element of the General Plan that requires the promotion of Hayward as a destination for nonresidents. An anchor store on State Route 92 (West Jackson Street) near Interstate 880 can serve this purpose since it typically has a wider customer base than small shops. The division of the anchor store as requested may actually be detrimental to the long-term viability of the shopping center since a use that has a regional draw would not be provided and fewer customers would visit the center in that the division of the anchor would not attract a use that is underrepresented in the western area of the City.
- C. The applicant has not provided evidence that the project will not provide a use or uses that will be in conformity with applicable performance standards. The intent of the Planned Development District is to carry out the policies and objectives of the General Plan. In addition, the overall planning for the purpose intended will not create an environment of sustained desirability and stability through the design and development standards since the division of the anchor store does not guarantee that that the unknown uses would serve the neighborhood and the region.
- D. The exception to the policies and goals of the Economic Development Element of the General Plan and the Planned Development District is not adequately compensated for because it has not been proven that the potential uses that could be beneficial to the residents of Hayward could be provided. In addition, the division of an anchor store may decrease the number of customers to the center because the potential of a regional draw will be removed.



Area & Zoning Map

PL-2003-0746 ZC

Address: 24989 Santa Clara Avenue

Applicant: Satish Narayan

Owner: Rana Ahmed

CL-Limited Access Commercial

CN-Neighborhood Commercial

PD-Planned Development

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential,RSB4,RSB6



**DUE TO THE LENGTH OR COLOR
OF THE REFERENCED EXHIBIT,
IT HAS BEEN ATTACHED AS A
SEPARATE LINK.**

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 04-

Introduced by Mayor _____

me
5/13/04

RESOLUTION DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF ZONE CHANGE APPLICATION NO. PL-2003-0746

WHEREAS, there has been presented to the City of Hayward a request by Satish Narayan (Applicant) and Rana Ahmed (Owner) to divide an anchor store into two or three smaller stores located at 24989 Santa Clara Avenue in a Planned Development (PD) District; and

WHEREAS, on March 25, 2004, the Planning Commission denied (7-0) the request to divide the smaller anchor store into three smaller stores, expressing concerns that the elimination of major tenant space would be detrimental to the long-term viability of the smaller stores in the center; and

WHEREAS, the denial was appealed on March 31, 2004; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines:

1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and is Statutorily Exempt from CEQA guidelines, section 15270(a), Projects Which Are Disapproved
2. The project is not in substantial harmony with the surrounding area in that it does not take into account the long-term commercial needs of the residents of the surrounding neighborhoods and the commuters on nearby State Route 92 and I-880. An anchor store at this location can serve this purpose since it typically has a wider customer base than small shops. The division of the anchor store as requested may actually be detrimental to the long-term viability of the shopping center since a use that has a broader draw would not be provided and fewer customers would visit the center in that the division of the anchor would not attract a use that is underrepresented in this area of the City.
3. The applicant has not provided evidence that the project will provide a use or uses that will be in conformity with applicable performance standards. The intent of the Planned Development District is to carry out the policies and

objectives of the General Plan. In addition, the overall planning for the purpose intended will not create an environment of sustained desirability and stability through the design and development standards since the division of the anchor store does not guarantee that the unknown uses would serve the surrounding neighborhoods and the City.

4. The incremental change to the Planned Development District has not been shown by the applicant to be desirable to the total development over the long term. The applicant has not adequately demonstrated that the proposal is compatible with City economic development policies as it has not been proven that the potential uses would be beneficial to the residents of Hayward. In addition, the division of an anchor store may decrease the number of customers to the center because the potential of a broader draw will be removed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, based on the forgoing findings, that the appeal of the Planning Commission's denial of Zone Change Application No. PL-2003-0746, regarding the request to divide an anchor store into two or three smaller stores is denied, and the Planning Commission's decision is upheld.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward